
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

PHILLIP ROBINETTE, #26845-077

versus

UNITED STATES OF AMERICA

§
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§

CIVIL ACTION NO. 4:14-CV-263
CRIMINAL ACTION NO. 4:09-CR-70(10)

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to a United States Magistrate Judge, who issued a Report and Recommendation concluding that the motion to vacate, set aside, or correct his sentence filed pursuant to 28 U.S.C. § 2255 should be denied and dismissed with prejudice. Movant has filed objections.


The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of the case, has been presented for consideration. Having made a *de novo* review of the objections raised by Movant to the Report, the Court concludes that the findings and conclusions of the Magistrate Judge are correct and the objections of Movant are without merit. Movant fails to meet the threshold requirement of actual innocence to avoid the procedural impediment of the statute of limitations. *McQuiggin v. Perkins*, 569 U.S. —, 133 S. Ct. 1924, 1928 (2013). He fails to present newly discovered evidence showing that no juror, acting reasonably, would have voted to find him not guilty beyond a reasonable doubt. *Id.* (citing *Schlup v. Delo*, 513 U.S. 298, 329, 115 S. Ct. 851 (1995)). It is accordingly

ORDERED that Movant's Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (#1) pursuant to 28 U.S.C. § 2255 is **DENIED**, and the case is **DISMISSED**

with prejudice. A certificate of appealability is **DENIED**. All motions by either party not previously ruled upon are **DENIED**.

Signed this date.

Oct 21, 2015

A handwritten signature in cursive script, reading "Marcia A. Crone".

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE